

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00773R

Parcel No. 170/00421-551-000

JANIS HENDRICKSON,

Appellant,

v.

POLK COUNTY BOARD OF REVIEW,

Appellee.

On October 21, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code chapter 701-126. Janis Hendrickson was self-represented. Assistant County Attorney Christina Gonzalez is counsel for the Polk County Board of Review and represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

The subject property is a one-story home built in 2007. It has 1708 square-feet on the main level with a full unfinished, walkout basement. It also has a two-car attached garage, a patio, and open porch. There is a 2700 square-foot metal utility building, a small pole shed, and bulk feed tanks all built in 1995. The site is 1.138 acres.

The property's January 1, 2015, assessment was \$263,000, allocated as \$42,200 in land value and \$220,800 to improvement value. Hendrickson protested to the Board of Review and claimed the assessment is not equitable as compared with assessments of other like property; and that the property is assessed for more than the

value authorized by law under section 441.37(1)(a)(1)(a) and (b). She also commented in the section of the protest form reserved for an error claim. However, we find the comments reassert her claim that the subject is inequitably assessed and over-assessed.

The Board of Review denied the petition.

Hendrickson reasserts her claims to this Board and believes the subject property's assessment should be \$240,700.

Hendrickson submitted six properties located in Altoona and Bondurant in support of her claims, summarized in the following chart. (Ex. 4-9).

	Year Built	Gross Living Area (GLA)	Site Size (Acres)	2015 AV
Subject	2007	1708	1.138	\$263,000
2717 NE 96th St	2006	1515	0.935	\$217,300
2695 NE 96th St	2002	1540	1.192	\$218,600
305 32nd St SW	2002	1625	1.437	\$201,100
8473 NE 38th Ave	2003	1560	2.010	\$220,300
4761 NE 80th St	1989	2716	1.598	\$300,500
503 17th Ave SW	2008	1633	1.027	\$236,300

All of the properties are one-story homes. None of the properties has a similar outbuilding like the subject; however, 4761 NE 80th Street and 503 17th Avenue SW both have detached garages, and 305 32nd Street has a small shed. 503 17th Avenue SW also has roughly 1300 square-feet of basement finish, whereas the subject and the other comparable properties do not have any basement finish.

We commend Hendrickson on locating similar style, age, and size properties for an equity or market value comparison. However, we do not find it necessary to dwell on her testimony because none of the properties recently sold and Hendrickson did not otherwise provide evidence of their market value, which is necessary either to develop an assessment/sales ratio for an equity comparison or to adjust the properties to arrive at a market value conclusion for the subject property.

Hendrickson was also critical of the equity and market comparable properties submitted by the Board of Review. (Ex. C & D). She points to the properties and

asserts her property is inferior to the properties the Board of Review submitted as comparable. (Ex. C) She notes the properties have gabled and peaked rooflines; superior garage counts; and other superior amenities compared to her property, which does not have all these upgraded exterior construction techniques. We agree with Hendrickson's observations and find the properties have superior exterior appeal.

Hendrickson offers similar criticism of the equity comparables offered by the Board. (Ex. D). She notes better-quality construction techniques including superior rooflines, paved approaches, and larger garages. Again, we agree; they do appear to have superior elevations compared to the subject property. However, in most other respects, they appear to be reasonably comparable to the subject. Nonetheless, we ultimately do not rely on these comparisons for our decision.

Amy Rasmussen, Director of Litigation for the Assessor's Office, testified for the Board of Review. She testified that the Assessor's Office considers location as an element of comparison, which is why it selected the properties for comparisons. (Ex. C & D). Ultimately, we question the comparability of the Board's market comparable properties 1 and 2. (Ex. C). They are different style homes, one-and-a-half and a two-story respectively, compared to the subject's one-story design; and, appear to be superior in exterior appeal. Comparable 3, although a similar in design, also appears to be superior in exterior appeal and is significantly larger with over 2000 square-feet of living-quality basement finish. We do not find it necessary to recite the Board's equity comparable properties because like Hendrickson's comparables, none of the submitted properties were recent sales or had an established market value, which is necessary to develop an assessment/sales ratio for an equity comparison

One of Hendrickson's primary concerns with her assessment was the condition rating associated with her outbuilding, which the previous owner built. In her opinion, the previous owner purposefully built the building with structural imperfections to cover up unlawful acts he intended to commit. The building is listed in Normal condition; however, she asserts because of the way it was constructed it is in significant disrepair. To support her claim, she submitted a bid to repair the structure from Morton Building, Inc. (Ex. 2). The bid consists, in part, of removing and replacing the entire roof; the

bottom 40 inches of steel on both ends including the bottom base trim, Morton steel and transition trim; and four overhead doors at a total project cost of \$30,964.

Rasmussen explained that the Normal rating is based on the condition of the property when it was built and that a recent inspection has not occurred. Using the cost sheet created by the Assessor's Office and included in the certification, Rasmussen noted the replacement cost new of the building was estimated at \$30,429. However, it has 46% physical obsolescence and another 20% functional obsolescence applied, lowering the value to its current assessment of \$13,084. Rasmussen explained that functional obsolescence is a deficiency in the property and expressed in the form of depreciation. When questioned by Hendrickson, Rasmussen testified she was unaware when the last inspection of the building was completed.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal

transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Hendrickson offered six properties she considered comparable for an equity analysis. However, none had recently sold and no other opinion of their market value was submitted; therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Further, Hendrickson did not make an assertion that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. Therefore, we find that Hendrickson has failed to show her property is inequitably assessed under section 441.37(1)(a)(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Hendrickson submitted six comparable properties; however, none of them had sold recently, and no adjustments were made for differences to establish an opinion of market value.

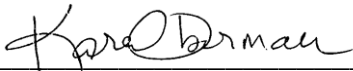
We note Hendrickson has concerns regarding the condition rating of the Morton building and questions the assessed value of this structure. We urge Hendrickson to contact the Assessor's Office to request an inspection of the building to ensure it is properly listed for the 2016 assessment.

Order

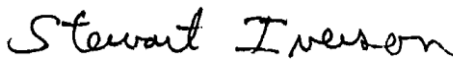
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 9th day of November, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Janis Hendrickson

Christina Gonzalez